

REMARKS*Rejections Relying on 35 U.S.C. § 102(e)*

Applicant notes that references used in support of the rejections rely on 35 U.S.C. § 102(e), either directly or through 35 U.S.C. § 103(a). In responding to the rejections, Applicant does not admit that the references are prior art and Applicant specifically reserves the right to swear behind these references at a future date. However, Applicant contends that the claims are patentably distinct from the cited references.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-4, 8-12 and 15-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Olkkonen et al.(U.S. Patent No. 6,842,460) in view of Stewart et al.(U.S. Patent No. 6,259,405).

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Olkkonen et al.(U.S. Patent No. 6,842,460) in view of Terlep et al.(U.S. Patent No. 6,579,777).

Claims 5-6 and 13-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Olkkonen et al.(U.S. Patent No. 6,842,460) in view of Dupray (U.S. Published Application No. 2004/0266457).

Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Olkkonen et al.(U.S. Patent No. 6,842,460) in view of Stewart et al.(U.S. Patent No. 6,259,405) and further in view of Dupray (U.S. Published Application No. 2004/0266457). Applicant respectfully traverses.

Claims 1-4 and 8-11

The Office Action states, "Olkkonen differs from the claimed invention in not specifically teaching for querying for supplemental information from each of the detected wireless network devices; identifying each of the detected wireless network devices that match a selection criteria using the supplemental information. However, Stewart teaches querying for supplemental information from each of the detected wireless network devices (col. 16 lines 29-

49); identifying each of the detected wireless network devices that match a selection criteria using the supplemental information (col. 2 line 50 through col. 3 line 3).” Office Action, page 2, lines 4-11. Applicant respectfully disagrees with this characterization.

First, because the Office admits that Olkkonen et al. does not teach identifying each of the detected wireless network devices that match a selection criteria using supplemental information, Applicant submits that it cannot teach “associating the at least one signal quality with its respective wireless network device for each wireless network device that matches the selection criteria” and “prioritizing the wireless network devices that match the selection criteria based on their associated at least one signal quality” as recited in Applicant’s claim 1. In other words, if there is no identification of devices matching a selection criteria, there can be no association or prioritization based on that selection criteria. Furthermore, there is no assertion that Stewart et al. cures these deficiencies of the Olkkonen et al. reference. And, upon review of the Stewart et al. reference, Applicant contends that there is no teaching or suggestion by Stewart et al. of the association and prioritization as recited in Applicant’s claim 1. In fact, it is the intent of Stewart et al. to establish communication and offer services to any registered device without prioritization. *See, e.g.*, Stewart et al., column 12, lines 53-56. Because neither Olkkonen et al. or Stewart et al., taken either alone or in combination, teach or suggest “associating the at least one signal quality with its respective wireless network device for each wireless network device that matches the selection criteria” and “prioritizing the wireless network devices that match the selection criteria based on their associated at least one signal quality” as recited in Applicant’s claim 1, Applicant contends that the cited references do not teach or suggest at least these limitations.

Second, the information identified by the Office Action as corresponding to Applicant’s supplemental information refers to information gathered about a mobile user, such as eating habits, age, sex, address, etc. This is not information regarding the wireless device, but information gathered from prior activity or registration of the mobile user and, thus, cannot correspond to Applicant’s supplemental information. *Cf.*, Stewart et al., column 16, lines 29-49; Specification, paragraph 0028. Furthermore, there is no purported attempt to identify wireless network devices that match a selection criteria using the supplemental information as asserted by the Office Action. Instead, a location of a wireless device is simply determined in response to

which network access point it establishes communications with. *See*, Stewart et al., column 2, line 50 through column 3, line 3. Because the Office Action admits that Olkkonen et al. does not teach “querying for supplemental information from each of the detected wireless network devices” and “identifying each of the detected wireless network devices that match a selection criteria using the supplemental information” as recited in Applicant’s claim 1, and because Applicant contends that the secondary reference also fails to teach or suggest at least these limitations, Applicant submits that the cited references, taken either alone or in combination, fail to teach or suggest these limitations as well.

In addition, Applicant contends that it is improper to combine Olkkonen et al. and Stewart et al. as proposed in the Office Action as the modification would make it unsatisfactory for its intended purpose. Olkkonen et al. purports to utilize network information providers to provide network characteristics to an incoming device. *See*, Olkkonen et al., column 5, lines 2-5 (“In accordance with the invention, when an ad hoc network is initially formed between two short-range wireless devices, the one device assumes the role of an ad hoc network information provider for the new ad hoc network.”). Olkkonen et al. thus expressly teaches away from querying for supplemental information from each detected wireless network device as required by Applicant’s claim 1 since upon detection of a wireless device of a network, the arriving device either communicates only with that detected device, or it is directed to the wireless device with which it is to communicate for network information. *See*, Olkkonen et al., column 5, lines 28-34 (“If, instead, an ordinary device in an ad hoc network is the first to respond to the inquiry signals of the arriving device, the responding device responds with the address of the ad hoc network information provider. The arriving device then pages the ad hoc network information provider to obtain information characterizing the ad hoc network.”). To modify Olkkonen et al. to provide for querying for supplemental information from each detected wireless network device would negate the functionality of Olkkonen et al.’s network information providers, thus making the modification unsatisfactory for Olkkonen et al.’s intended purpose. *See* MPEP § 2143.01 (“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification”)(citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

In view of the foregoing, Applicant respectfully submits that claim 1 is patentably distinct from the cited references, taken either alone or in combination. As claims 2-4 and 8-11 include all patentable limitations of claim 1, these claims are also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 1-4 and 8-11.

Claims 12 and 15-17

The Office Action states, “Olkkonen differs from the claimed invention in not specifically teaching for querying the wireless network device to determine whether it is of a desired type; querying the wireless network device to determined whether is [sic] has a desired status. However, Stewart teaches querying the wireless network device to determined whether it is of a desired type (read on ‘additional information’) (col. 11 lines 9-20 and col. 16 lines 29-49); querying the wireless network device to determine whether is [sic] has a desired status (read on ‘additional information’) (col. 11 lines 9-20 and col. 16 lines 29-49).” Office Action, page 4, second to last line through page 5, line 6. Applicant respectfully disagrees with this characterization.

First, because the Office admits that Olkkonen et al. does not teach querying the wireless network device to determine whether it is of a desired type or querying the wireless network device to determined whether it has a desired status, Applicant submits that it cannot teach “associating the first signal quality with the wireless network device when it is of the desired type and it has the desired status,” “generating a list of wireless network devices that are of the desired type and have the desired status” or “prioritizing the list of wireless network devices based at least on their associated first signal quality” as recited in Applicant’s claim 12. In other words, if there is no determination of a type or status of a wireless device, there can be no association, list generation or prioritization based on device type and status. Furthermore, there is no assertion that Stewart et al. cures these deficiencies of the Olkkonen et al. reference. And, upon review of the Stewart et al. reference, Applicant contends that there is no teaching or suggestion by Stewart et al. of the association, list generation and prioritization of the list as recited in Applicant’s claim 12. In fact, it is the intent of Stewart et al. to establish communication and offer services to any registered device without prioritization. *See, e.g.,*

Stewart et al., column 12, lines 53-56. Because neither Olkkonen et al. or Stewart et al., taken either alone or in combination, teach or suggest “associating the first signal quality with the wireless network device when it is of the desired type and it has the desired status,” “generating a list of wireless network devices that are of the desired type and have the desired status” or “prioritizing the list of wireless network devices based at least on their associated first signal quality” as recited in Applicant’s claim 12, Applicant contends that the cited references do not teach or suggest at least these limitations.

In view of the foregoing, Applicant respectfully submits that claim 12 is patentably distinct from the cited references, taken either alone or in combination. As claims 15-17 include all patentable limitations of claim 12, these claims are also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 12 and 15-17.

Claims 18-19

The Office Action states, “Olkkonen differs from the claimed invention in not specifically teaching for each of one or more transmitting wireless network devices, receiving a signal, wherein the signal has at least one signal quality (col. 4 lines 60-67); and querying for supplemental information from each wireless network device associated with a received signal. However, Stewart teaches for each of one or more transmitting wireless network devices, receiving a signal, wherein the signal has at least one signal quality (col. 48 lines 15-20); and querying for supplemental information from each wireless network device associated with a received signal (col. 16 lines 29-55).” Office Action, page 6, fifth from last line through page 7, line 3. Applicant respectfully disagrees with this characterization.

First, because the Office admits that Olkkonen et al. does not teach for each of one or more transmitting wireless network devices, receiving a signal, wherein the signal has at least one signal quality and querying for supplemental information from each wireless network device associated with a received signal, Applicant submits that it cannot teach “associating each at least one signal quality with its respective wireless network device and its supplemental information,” “comparing the supplemental information with a selection criteria to determine whether any wireless network device matches the selection criteria” or “if a wireless network

device matches the selection criteria, prioritizing that wireless network device against other wireless network devices matching the selection criteria, wherein the prioritization is based on the at least one signal quality for each of the wireless network devices matching the selection criteria” as recited in Applicant’s claim 18. In other words, if there is no determination of signal quality for each received signal and no determination of supplemental information for each device associated with a received signal, there can be no association, comparison or prioritization based on signal quality of devices having supplemental information matching a selection criteria. Furthermore, there is no assertion that Stewart et al. cures these deficiencies of the Olkkonen et al. reference. And, upon review of the Stewart et al. reference, Applicant contends that there is no teaching or suggestion by Stewart et al. of the association, comparison or prioritization as recited in Applicant’s claim 18. In fact, it is the intent of Stewart et al. to establish communication and offer services to any registered device without prioritization. *See, e.g.*, Stewart et al., column 12, lines 53-56. Because neither Olkkonen et al. or Stewart et al., taken either alone or in combination, teach or suggest “associating each at least one signal quality with its respective wireless network device and its supplemental information,” “comparing the supplemental information with a selection criteria to determine whether any wireless network device matches the selection criteria” or “if a wireless network device matches the selection criteria, prioritizing that wireless network device against other wireless network devices matching the selection criteria, wherein the prioritization is based on the at least one signal quality for each of the wireless network devices matching the selection criteria” as recited in Applicant’s claim 18, Applicant contends that the cited references do not teach or suggest at least these limitations.

In addition, Applicant contends that it is improper to combine Olkkonen et al. and Stewart et al. as proposed in the Office Action as the modification would make it unsatisfactory for its intended purpose. Olkkonen et al. purports to utilize network information providers to provide network characteristics to an incoming device. *See*, Olkkonen et al., column 5, lines 2-5 (“In accordance with the invention, when an ad hoc network is initially formed between two short-range wireless devices, the one device assumes the role of an ad hoc network information provider for the new ad hoc network.”). Olkkonen et al. thus expressly teaches away from querying for supplemental information from each wireless network device associated with a

received signal as recited in Applicant's claim 18 since upon detection of a wireless device of a network, the arriving device either communicates only with that detected device, or it is directed to the wireless device with which it is to communicate for network information. *See*, Olkkonen et al., column 5, lines 28-34 ("If, instead, an ordinary device in an ad hoc network is the first to respond to the inquiry signals of the arriving device, the responding device responds with the address of the ad hoc network information provider. The arriving device then pages the ad hoc network information provider to obtain information characterizing the ad hoc network."). To modify Olkkonen et al. to provide for querying for supplemental information from each wireless network device associated with a received signal would negate the functionality of Olkkonen et al.'s network information providers, thus making the modification unsatisfactory for Olkkonen et al.'s intended purpose. *See* MPEP § 2143.01 ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification")(citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

In view of the foregoing, Applicant respectfully submits that claim 18 is patentably distinct from the cited references, taken either alone or in combination. As claim 19 includes all patentable limitations of claim 18, this claim is also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 18-19.

Claim 7

The Office Action admits that Olkkonen et al. does not teach each and every limitation of Applicant's claim 1. Office Action, page 2, lines 4-7 ("Olkkonen differs from the claimed invention in not specifically teaching for querying for supplemental information from each of the detected wireless network devices; identifying each of the detected wireless network devices that match a selection criteria using the supplemental information."). As noted with respect to claim 1, Applicant contends that Olkkonen et al. fails to teach other limitations of claim 1. Furthermore, Applicant contends that these deficiencies of the Olkkonen et al. reference would not be cured even if the Stewart et al. reference were to be applied in this rejection, which it is not. Applicant further contends that the Terlep et al. reference does not cure the deficiencies of

the Olkkonen et al. reference with respect to claim 1. As claim 7 includes all patentable limitations of claim 1, Applicant contends that it is also allowable.

In addition, the Office Action asserts, “Terlep teaches prioritizing the wireless network devices that match the selection criteria based on their associated at least one signal quality further comprises prioritizing the wireless network devices using a first sort order based on a first signal quality and using a second sort order based on a second signal quality (col. 1 lines 28-39). Applicant notes that Terlep et al. selects between a first digitized signal and second digitized signal based on first and second signal quality measurements, but that the first and second signal quality measurements relate to two different signals, i.e., there are no first and second sort orders, but merely a choice based on a comparison of the first signal quality measurement to the second signal quality measurement.

In view of the foregoing, Applicant contends that claim 7 is patentably distinct from the cited references, either alone or in combination. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claim 7.

Claims 5-6

The Office Action admits that Olkkonen et al. does not teach each and every limitation of Applicant’s claim 1. Office Action, page 2, lines 4-7 (“Olkkonen differs from the claimed invention in not specifically teaching for querying for supplemental information from each of the detected wireless network devices; identifying each of the detected wireless network devices that match a selection criteria using the supplemental information.”). As noted with respect to claim 1, Applicant contends that Olkkonen et al. fails to teach other limitations of claim 1. Furthermore, Applicant contends that these deficiencies of the Olkkonen et al. reference would not be cured even if the Stewart et al. reference were to be applied in this rejection, which it is not. Applicant further contends that the Dupray reference does not cure the deficiencies of the Olkkonen et al. reference with respect to claim 1. As claims 5-6 include all patentable limitations of claim 1, Applicant contends that these claims are also allowable.

In view of the foregoing, Applicant contends that claims 5-6 are patentably distinct from the cited references, either alone or in combination. Applicant thus respectfully requests

reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 5-6.

Claims 13-14

The Office Action admits that Olkkonen et al. does not teach each and every limitation of Applicant's claim 1. Office Action, page 4, second to last line through page 5, line 2 ("Olkkonen differs from the claimed invention in not specifically teaching for querying the wireless network device to determine whether it is of a desired type; querying the wireless network device to determined whether is [sic] has a desired status.") As noted with respect to claim 12, Applicant contends that Olkkonen et al. fails to teach other limitations of claim 12. Furthermore, Applicant contends that these deficiencies of the Olkkonen et al. reference would not be cured even if the Stewart et al. reference were to be applied in this rejection, which it is not. Applicant further contends that the Dupray reference does not cure the deficiencies of the Olkkonen et al. reference with respect to claim 12. As claims 13-14 include all patentable limitations of claim 12, Applicant contends that these claims are also allowable.

In view of the foregoing, Applicant contends that claims 13-14 are patentably distinct from the cited references, either alone or in combination. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 13-14.

Claim 20

Applicant contends that it has shown claim 18 to be patentably distinct from the primary and secondary references of Olkkonen et al. and Stewart et al. Applicant further contends that the tertiary reference of Dupray fails to cure the deficiencies of the Olkkonen et al. and Stewart et al. references with respect to claim 18. As claim 20 includes all patentable limitations of claim 18, Applicant contends that it is also allowable.

In view of the foregoing, Applicant contends that claim 20 is patentably distinct from the cited references, either alone or in combination. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claim 20.

CONCLUSION

Claims 1-20 are pending.

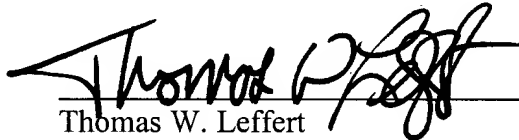
In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date:

24 APR 06



Thomas W. Leffert
Reg. No. 40,697

Attorneys for Applicant
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80572-2400